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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/616,828

07/10/2003

Paul Robert Heide

6270P0291US

2684

41528

7590

06/07/2005

THE LAW OFFICE OF RANDALL T. ERICKSON, P.C.  
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WHEATON, IL 60187

EXAMINER

CHARLES, MARCUS

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/616,828

Applicant(s)

HEIDE, PAUL ROBERT

Examiner

Marcus Charles

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 07-31-2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

5-25

### **DETAILED ACTION**

This is the first action relating to serial application number 10/616,828, filed 07/10,2003.

Claims 1-10 are currently pending.

#### ***Drawings***

1. The examiner has accepted the drawing filed 12/13/04 as formal drawing.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: the paragraph claiming benefit of the U.S provisional application must include a sub-title --Cross Reference to Related Applications--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-2 are rejected under 35 U.S.C. 102(a) as being anticipated by Kukucka et al. (US 2003/0125153). Kukucka et al. disclose a vehicle having a drive train including an engine with a CVT (10) with a rotary output that drives a transaxle (20/60) having an output that drives the wheels (26/28) of the vehicle. Kukucka et al. also disclose the CVT ratio of 0.4 and a transaxle ratio of 7.5. Therefore, it can be concluded that the transaxle ratio is greater than five times the CVT ratio.

In claim 2, Kukucka et al. disclose the CVT ratio is between 0.4-3.0 and the

transaxle ratio is about 7.5. Therefore the transaxle ration is about greater than twenty times the CVT ratio.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kukucka et al. Kukucka et al. do not disclose the difference between the maximum total gear ratio and minimum total gear ratio is 40 or greater, a total gear ration is about 58, the engine rotary speed is about 1500, the axle rotary speed is about 26 and the maximum transaxle ratio is greater than 17. It would have been obvious to one of ordinary skill in the art the time of the invention to modify the device of Kukucka et al. so as to meet the claimed limitations, since it has been held that discovering the optimum value of an effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).


***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Heth (2,709,327), Yamamuro et al. (4,484,493), Eichenberger (4,876,920), Morisawa (4,955,852), Morisawa (4,950,213) and Tanigwa (US 2001/0044349) disclose a vehicle having a CVT connect to a transaxle for driving the wheels of the vehicle.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (757) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (571) 272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Marcus Charles  
Primary Examiner  
Art Unit 3682  
May 19, 2005